

REMARKS**I. Introduction**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claim 1 is currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-6 are now pending in this application, with claims 5-6 being withdrawn from consideration..

II. Amendments to the Claims and Support Therefore

By way of the foregoing amendments, claim 1 is amended to specify that the carbon microrod having a cell adsorbed thereto. Support for this amendment can be found throughout the specification, particularly at page 8, line 21 and at Figure 1. Applicants respectfully submit that these amendments do not introduce new matter and therefore request the Examiner to enter the amendments.

III. The Office Action**A. Rejection of claim 1 under 35 U.S.C. § 112, second paragraph**

Claim 1 stands rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for use of the term “fine object.” While applicants believe that the term “fine object” clearly points out what applicants regard as their invention, solely in an effort to further the prosecution of this application, applicants have amended herein the term “fine object” to “cell.” Applicants respectfully submit that the claims are clear and definite and that the rejection be withdrawn.

B. Rejection of claims 1-2 and 4 under 35 U.S.C. § 102(b)

Claims 1-2 and 4 stand rejected as being allegedly anticipated by U.S. Pat. No. 5,218,757 to Kaneko et al (“Kaneko”). According to the PTO, Kaneko discloses a thin carbon rod comprising a composite of crystalline and glass-like carbon, the graphite crystals of which can be oriented perpendicular to the rod surface. Additionally, the PTO alleges that the reference discloses a tapered carbon rod measuring, at the thinnest end, 0.1 mm or less. Applicants respectfully traverse the rejection.

Kaneko does not disclose or suggest the claimed invention because the reference does not disclose a carbon microrod that has a cell adsorbed to the microrod. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987). While Kaneko discloses a carbon microelectrode for use in electrochemical detection, the reference does not disclose or suggest that the disclosed microelectrode has a cell adsorbed to it. Because the reference does not meet this limitation of the claimed invention, Applicants respectfully submit that the reference does not anticipate the claims. Accordingly, Applicants courteously request the Examiner to reconsider and withdraw this rejection.

C. Rejection of claim 3 under 35 U.S.C. § 103

Claim 3 stands rejected as being allegedly obvious in view of Kaneko. While recognizing that Kaneko does not disclose the amount of crystalline carbon recited in claim 3, the PTO determined that it would have been obvious to the person having ordinary skill in the art to select the claimed amount. To support this assertion, the PTO alleges that the reference allegedly guides such selection based upon the kind of organic binder raw material, the diameter of the desired electrode, and the ultimate use of the electrode. To the extent that this rejection may apply to the claims as amended, Applicants respectfully traverse the rejection.

Applicants respectfully submit that Kaneko would not have rendered obvious instant claim 3 since, as set forth above, Kaneko does not teach or suggest a carbon microrod that has a cell adsorbed to it. Moreover, there is absolutely no suggestion in the reference to modify

the disclosed microrod to have an adsorbed cell. This is so whether or not a person of ordinary skill would have selected the claimed amount of crystalline carbon as urged by the Examiner. Consequently, Applicants respectfully submit that the amendments to the claims renders this rejection moot, and therefore request the Examiner to reconsider and withdraw this rejection.

IV. Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

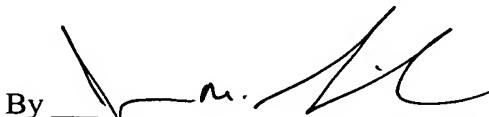
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 24 December 2003

FOLEY & LARDNER
Customer Number: 22428
Telephone: (202) 672-5571
Facsimile: (202) 672-5399

By 
for Harold C. Wegner
Attorney for Applicant
Registration No. 25,258